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August 24, 2023

Hon. Katherine Polk Failla
United States District Court
40 Centre Street
New York, N.Y. 10007
via ECF

MEMO ENDORSED

Re: United States v. Xin Lin,
21 Cr. 665 (KPF)

Your Honor

I write to supplement my earlier request for an adjournment of Xin Lin's sentence which is currently scheduled for September 6, 2023.

First, I apologize for assuming that the Court would grant an adjournment based on the pending guideline change and failing to file my sentencing submission which was due yesterday. I also regret making vacation plans in accord with that incorrect assumption. In the expectation that the Court would adjourn the September 6, 2023 sentence, I scheduled a family vacation out of state from August 26-September 11, 2023. It was clearly an error for me to do so.

I ask that the Court re-consider my adjournment request as there are further grounds for an adjournment. The presentence report in this case is replete with errors and inaccurate assumptions, including conduct that is ascribed to Mr. Lin that both parties dispute. Based on objections filed with probation, some but not all of the errors were corrected. In addition, contrary to the plea agreement the probation report concluded that money laundering rather than money transfer is the appropriate guideline resulting in a significantly higher guideline range. I would like to have additional time to prepare and submit a submission to address and refute those errors.

However, if the Court directs I will file a submission tomorrow. While I hope to be able to spend my entire ill-planned vacation with my family, if the Court requires I will return to New York and appear for sentencing as scheduled on September 6, 2023.

I have not discussed this further application with A.U.S.A. Sarah Kushner, Esq., but she has previously consented to the prior adjournment request for to a date in mid-October, 2023, exclusive of October 17th or 19th when she is otherwise engaged.

Respectfully
Lisa Scolari
Lisa Scolari

Application GRANTED. With dismay, the Court grants Ms. Scolari's adjournment request, but solely as to avoid a later issue on appeal. The sentencing currently scheduled for September 6, 2023, is hereby ADJOURNED to **October 19, 2023, at 3:00 p.m.**

The Court pauses to underscore its disappointment with defense counsel. Not only did Ms. Scolari fail to file her sentencing submission on time, she then filed a presumptuous and not-fully-honest adjournment request. Counsel would have done well to be transparent with the Court in the first instance instead of engaging in such unfortunate behavior. Though it will not hold them against Mr. Lin, the Court will not soon forget counsel's efforts at gamesmanship.

The Clerk of Court is directed to terminate the pending motion at docket number 50.

Dated: August 24, 2023
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE